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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,551	12/28/2005	Masaaki Shimada	1190-0617PUS1	7873
2292 7590 03/22/2010 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747				
EXAMINER				
TEKLE, DANIEL T				
ART UNIT		PAPER NUMBER		
2621				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary

Application No.

10/562,551

Applicant(s)

SHIMADA ET AL.

Examiner

DANIEL TEKLE

Art Unit

2621

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/GS/US)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 1-9 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The "computer-readable medium" can broadly interpret to include signal which is non-statutory subject matter.

"In the state of the art, transitory signals are commonplace as a medium for transmitting computer instruction and thus, in the absence of any evidence to the contrary and give the broadest reasonable interpretation, the scope of a "computer readable medium" covers a signal per se."

In order to overcome this rejection examiner suggest replacing "computer-readable medium" with "non-transitory computer-readable medium"

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1, 2, 10 and 17 rejected under 35 U.S.C. 102(e) as being anticipated by Knudson et al. (US 2005/0273819).

Regarding Claim 1: Knudson et al. discloses a portable recording medium holding: encoded compressed video information and/or encoded compressed audio information, which are related to a program to be broadcasted (**paragraph 0087 and fig. 1**); a reservation set command for setting a reservation of video recording and/or audio recording of the program (**paragraph 0057 and fig. 7**); and program attribute information including at least a broadcast start time of the program (**paragraph 0057 and fig. 7**).

Regarding Claim 2: Knudson et al. discloses a portable recording medium according to claim 1, further holding video information for reservation setting which is used for selecting whether a reservation of video recording and/or audio recording of the program is set or not (**paragraph 0057-0058 and fig. 7**); wherein when a selection is made to set a reservation of video recording and/or audio recording of the program, the reservation set command functions as a command for setting the reservation of video recording and/or audio recording of the program (**paragraph 0057-0058 and fig. 7**).

Regarding Claim 10: Knudson et al. discloses a video recording/reproducing apparatus for reproducing data from a portable recording medium of claim 1; the video recording/reproducing apparatus comprising: a means for obtaining the reservation set command of the portable recording medium (**paragraph 0057-0058 and fig. 1 and 7**); and a means for obtaining program attribute information in accordance with the reservation set command and setting a reservation of video recording and/or audio recording in accordance with the program attribute information (**paragraph 0057-0058 and fig. 1 and 7**).

Regarding Claim 17: Knudson et al. discloses a video recording/reproducing apparatus for reproducing data from a portable recording medium of claim 1, the video recording/reproducing apparatus comprising: a reproduction means for reproducing data from the portable recording medium (**paragraph 0057 and fig. 1**); a means for obtaining the reservation set command of the portable recording medium; a means for obtaining the program attribute information in accordance with the reservation set command and setting a reservation of video recording and/or audio recording on the basis of the program attribute information (**paragraph 0057-0058 and fig. 1 and 7**); and a record means for recording the program in accordance with the reservation of video recording and/or audio recording, which has been set; the reproduction means and the record means being configured as one recording/reproducing means or as separate means (**paragraph 0057-0058 and fig. 1 and 7**).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3, 4-9, 11-16 and 18-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Knudson et al. as applied to claim 1-2 above, and further in view of Kanazawa et al. (US 6,580,870).

Regarding Claim 3: Knudson et al. discloses a portable recording medium according to claim 1, wherein the reservation set command and the program attribute information are contained in reproduction control information of a video unit (**paragraph 0057-0058 and fig. 7**); further Knudson et al. did not disclose, however Kanazawa et al. discloses the reproduction control information being placed at a leading end of each video unit (**fig. 18**); the video unit comprising an I-picture, data of which is compressed within a frame, a P-picture, data of which is compressed with motion compensation of the I-picture preceding in time, and a B-picture, data of which is compressed with motion compensation of the I-picture or P-picture preceding or following in time (**column 12 lines 27-31**).

It would have been obvious to one ordinary skill in the art at the time of the invention was made to combine Kanazawa et al. invention into Knudson et al. invention in order to reproduce a high quality AV data.

Regarding Claim 4: Knudson et al. discloses a portable recording medium according to claim 1, further Kanazawa et al. disclose holding an identification number for identifying the program attribute information (**fig. 3**); wherein the reservation set command and the identification number are contained in reproduction control information of a video unit (**fig. 18**); the reproduction control information being placed at a leading end of each video unit; the video unit comprising an I-picture, data of which is compressed within a frame, a P-picture, data of which is compressed with motion compensation of the I-picture preceding in time, and a B-picture, data of which is compressed with motion

compensation of the I-picture or P-picture preceding or following in time (**column 12 lines 27-31**).

It would have been obvious to one ordinary skill in the art at the time of the invention was made to combine Kanazawa et al. invention into Knudson et al. invention in order to reproduce a high quality AV data.

Regarding Claim 5: Knudson et al. discloses a portable recording medium according to claim 1, further Kanazawa et al. disclose wherein the reservation set command and the program attribute information are contained in a command table in a management area placed in a lump in the portable recording medium, the command table being referenced after the program ends (**fig. 18**).

Regarding Claim 6: Knudson et al. discloses a portable recording medium according to claim 1, further Kanazawa et al. disclose holding an identification number for identifying the program attribute information (**fig. 3**); wherein the reservation set command and the program attribute information are contained in a command table in a management area placed in a lump in the portable recording medium, the command table being referenced after the program ends (**fig. 3 and fig. 18**).

Regarding Claim 7: Knudson et al. discloses a portable recording medium according to claim 1, further Kanazawa et al. disclose holding an identifier indicating whether the portable recording medium holds the reservation set command and the program attribute information or not (**fig. 3**).

Regarding Claim 8: Knudson et al. discloses a portable recording medium according to claim 1, further Kanazawa et al. disclose wherein the portable recording medium comprises a reproduction-only area and a recordable area; the reproduction-only area holding the encoded compressed video information and/or the encoded compressed audio information, the reservation set command, and the program attribute information; the recordable area being an area, in which video recording and/or audio recording of the program can be made (**column 1 lines 40-55 and fig. 3**).

Regarding Claim 9: Knudson et al. and Kanazawa et al. discloses a portable recording medium according to claim 8, further Kanazawa et al. disclose wherein the portable recording medium is a single-sided dual-layer recording medium comprising a first recording layer and a second recording layer; the first recording layer comprising the reproduction-only area; the second recording layer comprising the recordable area (**column 1 lines 40-55**).

Regarding Claim 11: Knudson et al. and Kanazawa et al. discloses a video recording/reproducing apparatus for reproducing data from a portable recording medium of claim 5, the video recording/reproducing apparatus comprising: further Knudson et al. disclose means for obtaining the reservation set command, with reference to a command table after the program ends (**paragraph 0057-0058 and fig. 7**); and a means for setting a reservation of video recording and/or audio recording on the basis of the program attribute information in accordance with the reservation set command when a selection is made to set a reservation of video recording and/or audio recording of the program (**paragraph 0057-0058 and fig. 7**).

Regarding Claim 12: Knudson et al. and Kanazawa et al. discloses a video recording/reproducing apparatus for reproducing data from a portable recording medium of claim 4, the video recording/reproducing apparatus comprising: further Kanazawa et al. disclose a means for obtaining the reservation set command of the portable recording medium (**fig. 3**); and a means for obtaining program attribute information corresponding to the identification number in accordance with the reservation set command and setting a reservation of video recording and/or audio recording on the basis of the program attribute information (**fig. 3**).

Regarding Claim 13: Knudson et al. and Kanazawa et al. a video recording/reproducing apparatus for reproducing data from a portable recording medium of claim 7, the video recording/reproducing apparatus comprising: further Kanazawa et al. discloses a means for determining whether a reservation of video recording and/or audio recording in accordance with the reservation set command is set or not, on the basis of an identifier held in the portable recording medium (**fig. 3**); a means for obtaining the reservation set command of the portable recording medium in accordance with a result of the determination of whether the reservation is set or not; and a means for obtaining the program attribute information in accordance with the reservation set command and setting a reservation of video recording and/or audio recording on the basis of the program attribute information (**fig. 3**).

Regarding Claim 14: Knudson et al. and Kanazawa et al. a video recording/reproducing apparatus for reproducing data from a portable recording medium of claim 8, the video recording/reproducing apparatus comprising: further Kanazawa et

al. discloses means for obtaining the reservation set command of the portable recording medium (**fig. 3**); and a means for obtaining the program attribute information in accordance with the reservation set command and setting a reservation of video recording and/or audio recording in a recordable area on the basis of the program attribute information (**fig. 3**).

Regarding Claim 15: Knudson et al. and Kanazawa et al. a video reproducing apparatus for reproducing data from a portable recording medium of claim 1, the video reproducing apparatus comprising: further Kanazawa et al. discloses means for obtaining the reservation set command of the portable recording medium (**fig. 3**); a means for obtaining the program attribute information in accordance with the reservation set command (**fig. 3**); and a transmission means for sending the program attribute information (**fig. 23a-23b**).

Regarding Claim 16: Knudson et al. and Kanazawa et al. a video recording apparatus comprising: further Kanazawa et al. discloses a means for receiving the program attribute information sent from the transmission means of a video reproducing apparatus of claim 15 (**fig. 23a-23b**); in addition Knudson et al. discloses a means for setting a reservation of video recording and/or audio recording on the basis of the received program attribute information (**paragraph 0057-0058 and fig. 7**); and a record means for recording the program in accordance with the reservation of video recording and/or audio recording, which has been set (**paragraph 0057-0058 and fig. 7**).

Regarding Claim 18-20: Claim 18-20 reject for same subject matter to claim 16 as discussed above.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL TEKLE whose telephone number is (571)270-1117. The examiner can normally be reached on 7:30am to 5:00pm M-R and 7:30-4:00 Every other Friday..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha D. Banks-Harold can be reached on 571-272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Marsha D. Banks-Harold/
Supervisory Patent Examiner, Art Unit 2621

/Daniel Tekle/
Examiner, Art Unit 2621

